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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Willem Van Dijk

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EXAMINER

CHEN, CATHERYNE

ART UNIT

PAPER NUMBER

1655

MAIL DATE

DELIVERY MODE

11/18/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/500,390	Applicant(s) VAN DIJK ET AL.	
	Examiner CATHERYNE CHEN	Art Unit 1655	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 27-44, 48-50 and 52 is/are pending in the application.
- 4a) Of the above claim(s) 31-34, 38 and 40 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 27-30, 35-37, 39, 41-44, 48-50, 52 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Currently, Claims 27-44, 48-50, 52 are pending. Claims 27-30, 35-37, 39, 41-44, 48-50, 52 are examined on the merits. Claims 1-26, 45-47, 51 are canceled. Claims 31-34, 38, 40 are withdrawn.

Election/Restrictions

Applicant's election without traverse of Group I (Claims 27-30, 35-37, 41-44, 48-50, newly added 52) and the species plant in the reply filed on Jan. 18, 2007 is acknowledged.

Response to Arguments

Applicant's arguments with respect to claims 27-30, 35-37, 39, 41-44, 48-50, 52 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims 30, 39 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In Claim 30, the ratio of D-mannose to D-glucose is in a ratio range of 5 to 20. This ratio range puts D-mannose amount at a number lower than that of D-glucose. In Claim 27, the percentage range of D-mannose is higher than that of D-glucose. Therefore, the amounts are in conflict with each other and render Claim 30 indefinite.

In Claim 39, what is the meant by “ultra” filtered? How “ultra” is ultra?

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore,

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the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 27-30, 35-37, 39, 41-44, 49, 52 are rejected under 35 U.S.C. 102(b) as being anticipated by Qiu et al. (US 6133440).

Qiu et al. teaches a composition of matter comprised primarily (>95%) of polysaccharides derived from Aloe, where the polysaccharides have average molecular weight of 70~80 kDa with a range between 50~200 kDa, and the polysaccharide are comprised of D-galactose (approx. 5% or less), D-glucose (approx. 5% or less) and D-mannose (approximately 90%) (Claim1). The composition of matter from Aloe species extracted and filtered (Claim 4). Aloe barbadensis gel was extracted (column 8, line 7). Aloe vera is also known as aloe barbadensis (see page 1, line 2, <http://www.thegardenhelper.com/aloe~vera.html>). Aloe products have been used in dermatological applications (column 1, lines 38-39). Aloe extracts have anti-inflammatory activity (column 1, lines 42-53). Aloe products are used in cosmetic industry to protect skin (column 2, lines 6-7). The polysaccharides would inherently contain negatively charged polysaccharides, which can bind positively charged columns and have molecular weight of about 100-300 kD, because the polysaccharides in the claimed and reference compositions all contain mannose and glucose.

Claims 27-30, 35-37, 41-44, 48-50, 52 are rejected under 35 U.S.C. 102(e) as being anticipated by Jia (US 6395311 B2).

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Jia teaches Aloe vera polysaccharide comprising of greater than 95% polysaccharides, having molecular weight of 70-80 kDa with a molecular weight range between 50-200 kDa, where polysaccharides are D-galactose in amounts of approximately 5% or less, D-glucose in amounts of 5% or less, and D-mannose in amounts of approximately 90% (Claim 1). A pharmaceutical composition in the form of a capsule or tablet (Claim 9). A pharmaceutical composition from plant extracts or nutritional supplements (Claim 10). Aloe vera can be used topically and subcutaneously to the site of inflammation (Column 2, lines 1-3). The polysaccharides would inherently contain negatively charged polysaccharides, which can bind positively charged columns and have molecular weight of about 100-300 kD, because the polysaccharides in the claimed and reference compositions all contain mannose and glucose.

Conclusion

No claim is allowed.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Catheryne Chen whose telephone number is 571-272-9947. The examiner can normally be reached on Monday to Friday, 9-5 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terry McKelvey can be reached on 571-272-0775. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Catheryne Chen
Examiner Art Unit 1655

/Michael V. Meller/

Primary Examiner, Art Unit 1655